

**UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:

LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796

Chapter 7

Honorable DANIEL S. OPPERMAN

**MOTION FOR APPROVAL OF SETTLEMENT  
REGARDING DISPUTE IN A 2015 STARCRAFT 176 STARFISH**

NOW COMES the Chapter 7 Trustee, Daniel C. Himmelspace, by and through his attorney, Daniel C. Himmelspace and for his Motion states as follows:

1. The Debtor(s) Matthew LaFond ("Debtor(s)") filed a voluntary Chapter 7 bankruptcy petition on September 12, 2019.
2. Daniel C. Himmelspace ("Trustee") is the acting Chapter 7 Trustee in this case.
3. The Trustee and System & Service Technologies, Inc., as servicer for Medallion Bank ("Bank") have entered into an Agreement to Settle a dispute over the Bank's security interest in a 2015 Starcraft 176 Starfish (VIN STR37389K415). (Stipulation attached)
4. Under that Agreement, the Estate will receive the sum of \$4,000.00 from the Bank.
5. The Trustee believes that the \$4,000.00 Settlement Payment is fair and reasonable compensation to the bankruptcy estate.
6. Federal Rule of Bankruptcy Procedure 9019(a) grants this Court authority to approve the Settlement Agreement upon Motion by the Trustee and Notice and a Hearing.
7. Federal Rule of Bankruptcy Procedure 9019 offers no guidance as to the criteria to be used in evaluating whether a Settlement should be approved, but Courts "uniformly have drawn from the language of the Supreme Court's decision in *TMT Trailer Ferry* in establishing a "fair and equitable" threshold for Settlement approval. "*In re Anderson*, 377 B.R. 865, 870 (B.A.P. 6<sup>th</sup> Cir 2007); *Protective Committee for Indep. Stockholders of TMT Trailer Ferry v. Anderson*, 390 U.S. 414, 424 (1968) ("The requirements...that plans of reorganization be both "fair and equitable", apply to compromises just as to other aspects of reorganizations.")
8. In considering a proposed compromise, the Court is charged with an affirmative obligation to apprise itself of the underlying facts and to make an independent judgment as to whether the compromise is fair and equitable. *Reynolds v. Commissioner*, 861 F. 2d 469, 473 (6<sup>th</sup> Cir. 1988).
9. The Court must also weigh factors such as the probability of success on the merits, the complexity and expense of litigation, and the reasonable views of creditors. *Bauer v. Commerce Union Bank*, 859 F.2d 438, 441 (6<sup>th</sup> Cir. 1988).
10. Compromises expedite the administration of the case, reduce administrative costs, and are favored in bankruptcy. *See Protective Comm. Of Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424 (1968).

11. Courts in the Sixth Circuit have noted that “[s]ettlements in bankruptcy cases are favored by law.” *Buckeye Check Cashing, Inc. v. Meadows*, 396 B.R. 485, 499 (6<sup>th</sup> Cir. (BAP) 2008) (citing *In re Cormier*, 382 B.R. 377, 400-01 (Bankr. W.D. Michigan, 2008))
12. If the Trustee does not settle this issue, it is anticipated that the cost to litigate the issues may exceed the amount in controversy.
13. The Trustee believes that this Settlement is fair and reasonable and it should be approved by the Court.
14. The Trustee believes that the proposed Settlement is in the best interest of the bankruptcy estate.

WHEREFORE, your Trustee requests that this Court approve the Settlement as set forth above and in accordance with the proposed order attached hereto as **Exhibit “1”**.

Dated: February 6, 2020

/s/ DANIEL C. HIMMELSPACH  
DANIEL C. HIMMELSPACH(P31950)  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603  
Tel: (989) 790-0400  
[trusteehimmelspace@gmail.com](mailto:trusteehimmelspace@gmail.com)

**UNITED STATES BANKRUPTCY COURT FOR THE  
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In the Matter of:

LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796

Chapter 7

Honorable DANIEL S. OPPERMAN

**ORDER AUTHORIZING TRUSTEE'S MOTION FOR APPROVAL OF  
SETTLEMENT REGARDING DISPUTE OVER 2015 STARCRAFT 176 STARFISH**

This matter having come before the Court upon Motion of the Chapter 7 Trustee, seeking authority to Settle a dispute over the security interest of Medallion Bank, and

The Court having reviewed the Motion and having determined that the same was properly noticed pursuant to Local Rule and there having been no objections to the proposed settlement, and further that the settlement is in the best interest of the Estate.

NOW THEREFORE:

**IT IS HEREBY ORDERED** that the Chapter 7 Trustee, DANIEL C. HIMMELSPACH, is authorized to settle the dispute over Medallion Bank's security interest in the 2015 Starcraft 176 Starfish as set forth in his Motion for the sum of **\$4,000.00**.

**IT IS FURTHER ORDERED** that Medallion Bank shall submit the payment of **\$4,000.00** within 10 days of the date of this Order.

**IT IS FURTHER ORDERED** that this Settlement terminates any interest of the bankruptcy estate in the boat in question, VIN STR37389K415.

**"Exhibit 1"**

**UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:

LAFOND, MATTHEW

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Case No. 19-21796

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**STIPULATION TO SETTLE DISPUTE REGARDING  
SECURITY INTEREST OF MEDALLION BANK**

The Chapter 7 Trustee and Medallion Bank, by their respective counsel, stipulate as follows:

1. Trustee and Medallion Bank (through Systems & Services Technologies, Inc.) previously stipulated that the Bank did not have a security interest in a 2015 Starcraft 176 Starfish (VIN STR37389K415) at Docket 19, with an Order at Docket 20.
2. Notwithstanding, it appears there may be documentation supporting a security interest by the Bank.
3. To avoid further cost to the Bank and the estate, the Bank will pay the estate Four Thousand (\$4,000.00) Dollars for any interest the estate may have in the boat.
4. Payment will be made within ten (10) days of the entry of an appropriate Order.

**WHEREFORE** the Trustee and Medallion Bank request the Court to approve this Settlement.

Date: February 6, 2020

/s/ DANIEL C. HIMMELSPACH

Daniel C. Himmelspace, (P31950)

Attorney for Chapter 7 Trustee

PO Box 5856

Saginaw, MI 48603

Tel: (989) 790-0400

[attyhimmelspace@gmail.com](mailto:attyhimmelspace@gmail.com)

Dated: February 5, 2020

/s/ MOLLY SLUTSKY SIMONS

Molly Slutsky Simons (OH 0083702)

Sottile & Barile, Attorneys at Law

Attorneys for Medallion Bank

394 Wards Corner Road, Ste. 180

Loveland, OH 45140

Tel: (513) 444-4100

[bankruptcy@sottileandbarile.com](mailto:bankruptcy@sottileandbarile.com)

**UNITED STATES BANKRUPTCY COURT FOR THE  
EASTERN DISTRICT OF MICHIGAN - NORTHERN DIVISION**

In the Matter of:  
LAFOND, MATTHEW

Debtor(s)

Case No. 19-21796  
Chapter 7  
Honorable DANIEL S. OPPERMAN

**NOTICE OF TRUSTEE'S MOTION FOR APPROVAL TO SETTLE DISPUTE OVER  
2015 STARCRAFT 176 STARFISH**

CHAPTER 7 TRUSTEE, Daniel C. Himmelspace, has filed a Motion with the Court for Settlement regarding a dispute over Medallion Bank's security interest.

**Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one).**

If you do not want the court to grant relief sought in the Motion, or if you want the court to consider your views on the Motion, within Twenty-one (21) days, you or your attorney must:

1. File with the court a written response or an answer, explaining your position at:

U.S. Bankruptcy Court  
111 First Street,  
Bay City, Michigan, 48708

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above.

You must also mail a copy to:

Daniel C. Himmelspace  
Attorney at Law  
PO Box 5856  
Saginaw, MI 48603

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

**If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the motion or objection or may enter an order granting relief.**

Dated: February 6, 2020

/s/ DANIEL C. HIMMELSPACH  
DANIEL C. HIMMELSPACH(P31950)  
Chapter 7 Trustee  
PO Box 5856  
Saginaw, MI 48603  
Tel: (989) 790-0400  
trusteehimmelspace@gmail.com

(Response or answer must comply with F.R. Civ. P. 8(b), (c) and (e))

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Honorable DANIEL S. OPPERMAN

**CERTIFICATE OF SERVICE**

I hereby certify that on February 6, 2020, I forwarded a copy of the Motion for Approval of Settlement Regarding Dispute in 2015 Starcraft 176 Starfish and Notice, by first class mail to all entities on the attached matrix.

Dated: February 6, 2020

/s/ KIMBERLY A. HOSPODAR  
KIMBERLY A. HOSPODAR (P31950)  
Chapter 7 Trustee Assistant  
PO Box 5856  
Saginaw, MI 48603  
Telephone: (989) 790-0400  
[trusteehimmelspach@gmail.com](mailto:trusteehimmelspach@gmail.com)

Label Matrix for local noticing  
0645-1  
Case 19-21796-dob  
Eastern District of Michigan  
Bay City  
Wed Feb 5 13:37:16 EST 2020

Allianceone Recvbles M  
4850 E Street Rd Ste 300  
Trevose, PA 19053-6643

Citibank/Indigo  
PO Box 4499  
Beaverton, OR 97076-4499

(p)INTERNAL REVENUE SERVICE  
CENTRALIZED INSOLVENCY OPERATIONS  
PO BOX 7346  
PHILADELPHIA PA 19101-7346

Merrick Bank Corp  
Po Box 9201  
Old Bethpage, NY 11804-9001

Sst/medallion  
4315 Pickett Rd  
Saint Joseph, MO 64503-1600

U.S. Trustee  
211 West Fort Street  
Ste. 700  
Detroit, MI 48226-3263

Matthew D LaFond  
1212 1/2 W Jenny  
Bay City, MI 48706-2954

ELGA Credit Union  
c/o Chadd A. O'Brien-General Counse  
2305 S. Center Road  
Burton, MI 48519-1147

Attorney General  
Law Building  
525 Ottawa  
Lansing, MI 48913-0001

El Ga Credit Union  
2303 S Center Rd  
Burton, MI 48519-1147

Lvnn Funding Llc  
C/o Resurgent Capital Services  
PO Box 10497  
Greenville, SC 29603-0497

Michigan Department of Treasury  
Collection Division/Bankruptcy Unit  
P. O. Box 30168  
Lansing, MI 48909-7668

Stenger & Stenger  
2618 E Paris Ave SE  
Grand Rapids, MI 49546-2458

Daniel Himmelspach  
P.O. Box 5856  
Saginaw, MI 48603-0856

74th District Court  
1230 Washington Ave  
Bay City, MI 48708-5737

Capital One Bank Usa N  
Po Box 30281  
Salt Lake City, UT 84130-0281

(p)FIRST SAVINGS BANK  
PO BOX 5096  
SIOUX FALLS SD 57117-5096

Merchants Credit Guide  
223 W Jackson St  
Chicago, IL 60606-6914

Pyod Llc  
C/o Resurgent Capital Services  
PO Box 10497  
Greenville, SC 29603-0497

U.S. Attorney  
Attn: Civil Division (IRS)  
101 First Street  
Ste. 200  
Bay City, MI 48708-5747

Kimberly A. Kramer  
Kimberly Kramer, PLC  
916 Washington Ave.  
Suite 320  
Bay City, MI 48708-5723

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified  
by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Fsb Blaze  
5501 S Broadband Lane  
Sioux Falls, SD 57108

IRS  
PO BOX 330500  
DETROIT, MI 48232

(d)Internal Revenue Service  
PO Box 21126  
Philadelphia, PA 19114-0326

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Systems & Services Technologies, Inc.

(u)Becki Wiedyk-LaFond

|                     |    |
|---------------------|----|
| End of Label Matrix |    |
| Mailable recipients | 21 |
| Bypassed recipients | 2  |
| Total               | 23 |